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CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 578

EUSEBIUS JAMES BIGGS,

Petitioner,

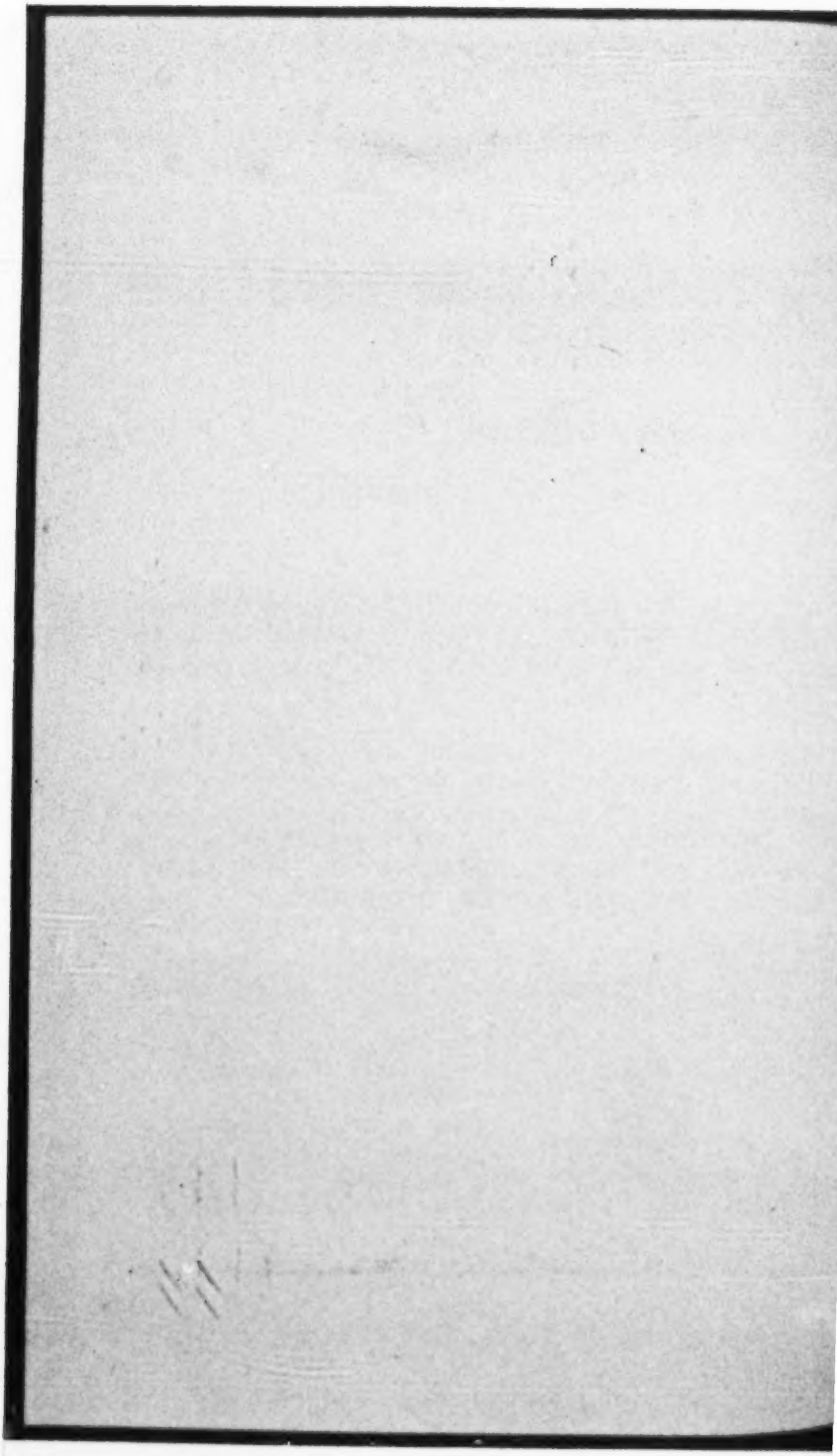
vs.

ULYSSES S. SCHWARTZ, KICKHAM SCANLAN, HUGO M. FRIEND, DONALD S. McKINLAY, individually and as representative of all the judges in the State of Illinois, and FRANK M. PADDEN,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

EUSEBIUS J. BIGGS,
3536 S. Peoria Street,
Chicago 20, Illinois,
Petitioner.



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Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

Eusebius James Biggs, hereinafter referred to as the petitioner, prays that a writ of certiorari issue to review the ruling of the United States Court of Appeals, which ruling decreed that the United States District Court does not have jurisdiction to estop the illegal activities of a group of State judges; who conspired to estop the petitioner from appearing in his own person to try his own suits in the local courts; said ruling being entered on September 20th, 1951, without briefs or abstracts, and became final on September 28th, 1951, when motion for reconsideration, or rehearing, with oral arguments was denied. This Court has permitted this Petition to be filed on or before February 9, 1952.

OPINION BELOW.

There is no opinion below, as according to the order of the Court of Appeals for the Seventh Circuit, their assumption was that all the lower District Court did was to decide that it did not have jurisdiction of the subject matter of the complaint, and on a motion to affirm; which was in the nature of a motion for summary judgment as to matters raised in the suggestions in support of the motion, in that certain respondents who are technically in default, and not legal defendants, told the court of appeals that it was a matter of practicing law by an attorney, which is contrary to the allegations of the complaint (appendix B); and that court wrote an order which is attached herewith as Appendix "A".

JURISDICTION.

The action of the Court of Appeals for the Seventh Circuit and the District Court give this Court jurisdiction under U.S.C.A. Title 28 1254-(2), as they both did not follow the Federal Rules of Civil Procedure which estopped the hearing of the case on the merits, and in particular the Court of Appeals for the Seventh Circuit is without authority to rule contrary to an affirmed complaint, by letting a technical defaulting respondent present a motion for summary judgment raising an issue of practising law thru his brief, when the issue is, will the United States Courts protect a layman appearing before state courts, to see that he has rights equal to those attorneys receive in the same courts, together with other items, and the final decision in this case should be determined by Article 1, Section 10, Article 4, Sections 1 and 2, and the Ninth and Fourteenth Amendments of the Constitution of the United States, and the cases that agree with the contentions of the petitioner are, *Shelly* v. *Kraemer*, (334

U. S. 1-13), *Hague* v. *Committee of Industrial Organization*, (307 U. S. 496), *Screws* v. *United States* (325 U. S. 91), *Angel* v. *Bullington* (67 S. Ct. 657), *Cotting* v. *Kansas City Stock Yards Co.*, (183 U. S. 79), *Ex parte Young* 209 U. S. 123, *Chicago Burlington and Quincy Railroad Co.* v. *Chicago* (166 U. S. 226), and various others supporting cases cited which will appear hereinafter. There is also involved a purported legal opinion reported in 341 Ill. App. 268 known as *Biggs* v. *Schwalge*.

STATUTES INVOLVED.

Title 8 U.S.C.A. sections 41-43 and 47—(2) and (3).
Chapter 13, Smith-Hurd Statutes of Illinois, 1949.

QUESTIONS PRESENTED.

1. Can a litigant practice law without a client?

2. Is the petitioner right in his contention that to appear in court to sue and defend in his own person is one of the privileges and immunities guaranteed by the Constitution of the United States as now amended?

3. Can the United States Courts be used to enforce equal protection of the (laws) rules of the Courts of Cook County, when the evidence is clear that the Courts, with the tacit consent of the Illinois Supreme Court, are discriminating against the litigant because he is a layman?

4. When the Statutes of Illinois provide that lien claims and accounts receivable can be assigned, and that litigants can sue or defend in their own persons, when the courts intentionally as a group discriminate against a single litigant, denying him these rights granted by the State, intentionally violating the Fourteenth Amendment to accomplish this objective, can he collect damages from these judges under Title 8 U. S. C. A., sections 43 and 47?

5. When the petitioner's life has been threatened, because he testified for the United States Government, which necessitated police protection at his home for years, and he is instructed by the Commissioner of Police to place a gun on the steering column of his automobile, and he follows the instructions, and he is subsequently arrested for having the gun there, and is locked in a cell for three days and two nights, because he was denied counsel and bail, and then when he is acquitted, and the gun is not returned, and when he sues for the gun, because a city ordinance says that the City can keep it, and the lower court upholds the illegal law, and when he asks for a certificate of importance so that an appeal to the Supreme Court can be made, the Court will not issue the certificate and he thus is estopped from appealing, and the City of Chicago steals the gun, and the judges transfer the companion case around from court to court to avoid a trial that seeks to stop the Chicago police from locking him up, denying him bail, and stealing his gun, because it was done for the Local Plumbers' Union, are these acts in violation of the Fourteenth Amendment, which Federal Courts will stop, or is the practice of law the issue, as the Appellate Court for the Seventh Circuit has ruled?

6. When on five occasions the defendants in causes brought by this petitioner are in default for want of an affidavit of merits to offset this plaintiff's motion for summary judgment, can the five judges involved refuse to enter the judgment and on motions of their own rule it is against public policy in two cases to have the litigant sue for his money without an attorney, and the others brought various other illegal reasons, and not violate the Fourteenth Amendment?

7. Can the clerk and bailiff of a State court surrender their desks for the use of the press, and a photographer

stand with camera ready to take pictures in court when the defendants are legally in default, and have the Court rule in violation of the Civil Practice Act of Illinois, that he does not need a motion to rectify the default, and say that there is no rule of court saying that only one attorney can appear on the motion, when the rule does exist, and the Court then allowed two attorneys and the defendant to address the Court, so that the press can print an untrue story, and not violate the Fourteenth Amendment, and have the aforesaid Acts anything to do with the legal practice of law, controlled by the State?

8. When the items set forth in some of the preceding paragraphs are set forth in reports of proceedings, can two of the judges involved, get together in *ex parte* hearings with the defendants' counsel and decide that they will mark the two reports of proceedings, "inaccurate and incomplete," when as one judge admits,

> "The report of proceedings is not inaccurate and incomplete, but if I were to let that report of proceedings go to the Supreme Court I will stultify myself against the charges you level at this Court",

and not violate the Fourteenth Amendment, and would those illegal acts have anything to do with the practice of law as an attorney, or is it discrimination against the petitioner, because he is a layman, as he alleged, which can be estopped in the Federal Court?

9. The respondents herein having admitted by their default and motion to strike that on one occasion a judge rendered judgment for a sum in excess of $4000.00 because of the defendants' default, and then he was called by other judges, at the request of the defendants' counsel, (and this happened during the lunch time of less than an hour), and refused to sign the judgment order, is this not a violation of the Fourteenth Amendment that can

be stopped by an injunction in a Federal Court when the litigant is seeking equal protection of the laws of the court?

10. When the laws of the State provide that *mandamus* in the Supreme Court of Illinois is only permissible by consent of that Court, and the Constitution does not provide for writs of prohibition, and the petitioner has tried to estop libel, estop other judges from advising another judge not to sign the judgment order he had agreed to sign, and to make the courts issue certificates of importance so that appeals can be made on constitutional questions, and the Supreme Court will not permit one of the petitions to be filed, has the litigant exhausted all his remedies in the Courts of Illinois, and is he not now justified in seeking relief in the Federal Court?

11. When the petitioner is appearing in front of a full court room, can the judge inform the spectators and lawyers and sometimes the press, who are there to intimidate the petitioner into dropping an action that

(1) "I disapprove of laymen practicing law, because lawyers have to go to school, and if you bring anymore cases here I will dismiss them"

(2) "I intended to stop you from presenting your own case",

(3) "I will send this case to Judge——, he will have a Roman Holiday",

(4) "I take the words of lawyers because they are sworn officers of the court",

(four different judges and the plaintiff could cover pages of similar quotations), and not be in violation of the Fourteenth Amendment, and is this not discrimination against a layman litigant, which can be stopped in the Federal Courts.

SPECIFICATION OF ERRORS TO BE URGED.

The Circuit Court of Appeals erred:

1. In accepting a motion which was supported by a brief raising matters not relating to jurisdiction.

2. Ruling that the subject matter of the questions heretofore stated are considered as practising law.

3. In affirming the order of the District Court.

4. In considering a motion brought by the chicanery of one law firm adopting a lawyer as a pseudo partner to cover up the default of other respondents.

STATEMENT OF THE CASE.

This is a case brought by a layman to secure equal protection of the laws (rules) of the local courts, and to estop the Courts from intentionally violating the Fourteenth Amendment to the Constitution of the United States, and was pleaded under Sections 43 and 47-2 and 3 of Title 8 U.S.C.A., and what has actually occurred in the lower court is that three respondents herein, who did not comply with the Federal Rules of Civil Procedure as to answering, but did file an appearance without notice to the petitioner, along with another defaulting respondent, have confessed violating section 20 of the Criminal Code 18 U.S.C. (1946 ed.) section 52, by relying on the illegal motion of another respondent accepted by the District Court, who waived rules 6 and 7 of his own court, and several rules of the Federal Rules of Civil Procedure, to prevent an argument on the motion.

By making the motion the one admitted that the other four respondents "had engaged in a conspiracy to prevent the petitioner from suing for his property," and that three of them "had tried him in absentia; in violation of the Fourteenth Amendment to the Constitution

of the United States; of violating the Attorneys and Counselors Act of Illinois, for the sole purpose of depriving" this petitioner "of appearing in court to sue for money due him unless he employed an attorney." (Items in quotation marks are quotes from the Complaint and are admitted by all the respondents).

The respondents, who are in serious trouble, as in a conspiracy charge;

> "all of the details and specific facts relied on cannot properly be set forth as part of the pleadings." *Wm. F. Luebke Co.* v. *Manhardt* (E. D. Wis. 1941) 37 F. Supp. 13; *Makan Amusement Co.* v. *Trenton-New Brunswick Theatres Co.* (D.N.J. 1944) 3 F.R.D. 429, 8 Fed, Rules Serv. 12 c. 244, Case No. 2; *Camrel Co., Inc.* v. *Skouras Theatres Corp.* (D.N.J. 1944) 8 Fed. Rules Serv. 8 a. Case No. 4.

in an attempt to extricate themselves from the difficulty they are in, as they have admitted anything this petitioner writes, being in default or having made motion to strike, filed a motion in the Appellate Court, supposedly intended to deny or affirm the judgment of the lower court as to jurisdiction, when what they filed was a combination of a motion for summary judgment, and to strike, with untrue statements contained in the Brief, (it was really a fishing expedition), and the Court of Appeals for the Seventh Circuit ruled that as it was a question of the practice of law, the Federal Courts do not have jurisdiction. However, it is not a question of practicing law, and the respondents are bound by the allegations of the affirmed complaint which is attached here as Appendix B (to save this Court's time only), and the Court of Appeals for the Seventh Circuit is without authority to modify the allegations of the complaint, which were admitted by either motion or default by the defendants' own choice.

REASONS FOR GRANTING THE WRIT.

1. Apparently, this is the first time this court has ever been asked to rule on the questions heretofore stated, and it is the contention of the petitioner that it is a simple case of Civil Rights, and that the relief sought can be secured under Titles 8 U.S.C.A. sections 43 and 47, based on the following cases, but in these cases as near as it can be determined the litigants were represented by an attorney. However, as the Courts say;

> "The Contract Clause, the Full Faith and Credit Clause and the Privileges or Immunities Clause of Federal Constitution fetter the freedom of a state to deny access to its courts howsoever much it may regard such withdrawal of jurisdiction, the adjective law of state or the exercise of its rights to regulate practice and procedure of its courts." U.S.C.A. Const. art. 1, sect. 10; art. 4, sect. 1, 2. *Angel* v. *Bullington* (67 Supreme Court 657).
>
> "For example, while the freedom of the courts may be ostensibly granted to a suitor or litigant, if the legislature, in an effort to prevent any inquiry of the validity of a particular statute, so encumber any challenge thereof in the courts by such excessive penalties that the party affected is necessarily intimidated and constrained to submit to the law rather than risk the penalties in testing it, then it becomes a serious question whether the party is not deprived of the equal protection of the laws." *Cotting* v. *Kansas City Stock Yards Co.*, 183 U. S. 79, 22 S. Ct. 30, 46 U. S. (L. ed.) 92; *Ex parte Young*, 209 U. S. 123, 28 S. Ct. 441, 52 U. S. (L. ed.) 714, 16 Ann. Cas. 764, 13 L.R.A. (N.S.) 932.
>
> "The means that may be employed to accomplish the purpose of the law is the process; in other words, "Process" is the mode by which the purpose of the law may be effected. (*Jenkins* v. *Ballantyne*, 8 Utah 245, 30 Pac. 760, 16 L.R.A. 689). The protection extends to rights, in the broadest sense of the term.

(*Ehern* v. *McGovern*, 154 Wis. 157, 142 N. W. 595, 46 L.R.A. (N.S.) 796.) In determining whether the requirement has been observed regard must be had rather to substance than to form; (*Chicago etc., R. Co.* v. *Chicago*, 166 U. S. 226, 17 S. Ct. 581, 41 U. S. (L. ed.) 979; *Simon* v. *Craft*, 182 U. S. 427, 21 S. Ct. 836, 45 U. S. (L. ed.) 1165; *Jacob* v. *Roberts*, 223 U. S. 261, 32 S. Ct. 303, 56 U. S. (L. ed.) 429.) for the mere form of the proceeding cannot convert the process used into due process of law, if the necessary result is illegally to deprive a person of his property without compensation. (*Chicago, B. & Q. R. Co.* v. *Chicago*, 166 U. S. 226, 17 S. Ct. 581, 41 U. S. (L. ed.) 979; *Washington & Nav. Co.* v. *Fairchild*, 224 U. S. 510, 32 S. Ct. 535, 56 U. S. (L. ed.) 863; *Barber Asphalt Paving Co.* v. *French*, 158 No. 534, 58 S. W. 934, 54 L. R. A. 492."

"The principle settled in *Ex parte Young*, 209 U. S. 123, to the effect that a suit to restrain state officials from enforcing an unconstitutional state statute in violation of plaintiff's rights and to his irreparable damage is not a suit against the State, applies also when the statute itself is constitutional but the attempted administration of it is not."

"Where it is clearly shown that a complainants rights are being violated, and the only remedy is by a large number of suits for damages, which by reason of their cost will produce no substantial result, the injury is irreparable and affords ground for injunction." (*Nashville C. & L. L. Ry. Co.* v. *McCamel*, 82 Fed. 65.);

the petitioner contends that they apply to this issue.

2. If this case is tried in the lower court, the evidence produced will affect the whole judicial system in Illinois, and while the matters set forth in the questions heretofore stated, are sufficient to justify the issuance of the writ of certiorari, this Court should also allow the writ because it will aid the citizens of Illinois, and in particular the

citizens of Cook County, Illinois, will be benefitted if this court stops the intentional violations of the 14th amendment to the constitution of the United States by the courts, which were described as controlled courts by the Honorable Dwight Green, now ex-Governor of Illinois, when he said:

> "IT NO LONGER MATTERS IN ILLINOIS WHO HAS THE LAW ON HIS SIDE, BUT RATHER WHICH LAWYER HE EMPLOYS."

and no court dared take issue with that statement, and for that reason, the petitioner states hereinafter, what should come out publicly, if a trial is held in the lower court, which may necessitate additional defendants in this cause, which he will make.

3. As a matter of common knowledge, for the past thirty years there has not been one complete full election of judges of the Circuit or Superior Courts held in Cook County wherein there was actually a bonafide contest between the two major political parties, the judges now sitting, and those sitting in the past being elected on what is known as a coalition slate, and unless the judge stays in the good graces of his sponsors, he is not renominated, and no judge who ran against the coalition slate has never been elected. The Appellate Court justices for the First District are appointed by the Supreme Court of Illinois after they are elected in one of two Courts, and have to get along with their sponsors or they will not get on the Circuit or Superior Court slate every six years.

4. Included in the slate makers, who thus elect the judges, are many lawyers who are active politically in local and national politics, and the politics of the Chicago Bar Association, whose recommendations are sometimes used by the slate makers to drop a judge who has lost favor with other slate makers, and when the litigant's

law firm contains a slate maker, a master in chancery, and they are active in the Chicago Bar Association, some of them deem it a matter of right that the Court rules are not binding on them, the Civil Practice Act of Illinois is a joke, and they can tell the Judge anything because he has to believe it, if the plaintiff is a layman, and then together they insult the plaintiff and have a Roman Holiday, and boast about the illegal actions of their associate judges.

5. In many instances the Superior and Circuit Court judges come up from the Municipal Court of Chicago, and in a recent article in the Illinois Law Review, printed by Northwestern University, based on a survey made over a period of five months, an attorney stated that the court rooms are infested by characters who are "gangsters in the guise of lawyers," and the bar association should clean house on the "gang of crooked criminal lawyers now reigning in the Criminal Courts."

6. It is to be noted that the judges of the Superior and Circuit Courts rotate as the judges of the Criminal Courts other than the Municipal Court of Chicago, and most of the papers in this area refer contemptuously to our Courts of Injustice, which is true, because conscientious Judges endowed with the Public Interest would not let *"Crooked Gangsters Lawyers"* appear in their Courts, and they should be able to see what the investigators for the Northwestern University saw.

7. The petitioner herein does not agree with the Honorable Dwight Green that all the Judges are controlled on all cases, but he can prove in his own cases that some have been, and when he attacked the Chicago Plumbing Code, one Judge refused to hear the case, and sent it to another Judge, who sent it to another Judge, who refused to hear it, who sent it back to the second Judge,

who heard the City's motion to strike, which was worthless, and the Court informed the assistant corporation counsel, who was then ordered to bring in evidence on a certain day to disprove the allegations of this plaintiff's complaint that the Chicago Plumbing Code read, word for word, with those sections of the Illinois Plumbing License Law, which the Supreme Court held unconstitutional in the case of *People* v. *De Witt Brown* (407 Ill. 565), but who on the day he was to produce evidence, without legal notice presented the plaintiff and the Court with an *amended motion*, which of course could not be done without violating the Civil Practice Act of Illinois. But the Court accepted the motion and insisted on an amended complaint, raising the nonsensical point that the petitioner would have to allege that he had all the qualifications other than those that were alleged, which estopped him from getting a master plumber's license. Early in June of the year: and the petition for the temporary restraining order was filed in March: he took the case under advisement, and altho repeatedly asked to refuse or grant the petition for the temporary restraining order, he refused to pass on the petition until three months later, when he dismissed the suit, as the assistant corporation counsel told him the Chicago Plumbing Code was not being enforced; when it was; and when asked for a certificate of importance so that an appeal could be made to the Illinois Supreme Court, he refused the certificate, and so he thought the petitioner was estopped from appealing. The petitioner believed otherwise, and so he presented an appeal bond to be signed by the judge, furnished by an approved bonding company, approved on the face of the bond by the court clerk, and the judge refused to sign it and in a court room insulted and abused the plaintiff for presenting it, advising a courtroom full of people that the petitioner has a lot of litigation, when he has no legal

reason for so stating, (the petitioner and the corporations he now controls, averages about 2% of his contracts involved in litigation, and had about 250 contracts in one year, and works for anyone without credit searches), and that the cases should go to the Appellate Court, (where they can not decide constitutional questions), and this is a common practice as to his cases along other lines.

8. In a recent case involving the change of the name of Pulaski Avenue back to Crawford Avenue, quoting from an editorial,

> "Judge O'Mally had to be called in from Aurora because Chicago Judges of the Superior Court considered the case too hot to handle—Mayor Kennelly shares the onus for permitting his chief law office to take part in a conspiracy to defy the law—",

and that is what has happened to this petition for three and one-half years past.

9. And that is what is wrong here. The petitioner attacked the Chicago Plumbing Code in 1948, six judges of the county refused to follow the law, and the petitioner's and corporation's employees dropped from 60 to 5, and he is losing in projected profits based on the way his business and the corporations were expanding, about $700.00 per working day. (It was about $500.00 when it started in June of 1948).

10. The corporations he worked for owed him about $50,000.00 and he took assignments of their accounts, and is still doing it. He sued on four of the assignments without counsel, which is permitted under section 8 of the Mechanics' Lien Act of Illinois, (chapter 82), the Attorneys and Counselors Act of Illinois, (chapter 13) and the Sales Act of Illinois section 220-221 of chapter 121½, all chapters being Smith-Hurd Statutes of Illinois 1949,

(see also *N. & G. Taylor Co.* v. *Anderson* (48 S. Ct. 144, 275 U. S. 431), and one of the four suits was directed against the Mayor of Chicago, the Attorney General of Illinois, the States Attorneys of Illinois, the Corporation Counsel of the City of Chicago, the local Plumbers Union and the Master Plumbers Association, because by virtue of the Chicago Plumbing Code and the Illinois Plumbing License Law, while he was actually engaged in the plumbing business, employing licensed plumbers in Illinois on Federal buildings which included post-office, residences, and other buildings, he could not use the men off of Federal property, and the City of Chicago, with the consent of all the defendants named, stopped the permits of the corporations that owed him; which were paying him up to $450.00 per working day; for a total of nine months, altho competent counsel sought the permits, but could not do anything because the judge told him from the bench that he could not file a petition for a writ of mandamus to secure the permits, which actually was an order to not prosecute the action, which counsel obeyed. Appearing before one of the respondents herein, when one of the issues had been joined and the opposing side was in default for want of an affidavit of merits necessary to offset his motion for summary judgment, the Court on his own motion ruled it was against public policy to sue on assignments if the assignments came from a corporation, and said he would dismiss the suits unless an attorney was hired to defend the interest of the corporation, and he was advised that they had no interest.

11. An attorney was hired, who told the Court that as assignments were legal, while an assignment could be attacked, the assignments in the cause were good, and the Court said he assumed that they were good, but it was against public policy to have an officer of the cor-

poration sue on the assignment, and when he was informed that the petitioner was not an officer, he still was adament, and the petitioner refused to let the attorney represent him to continue the action, and the Court dismissed one case and the assignee part of the other, altho the matter before him brought by the attorney was a petition for change of venue, so that he did not have to pass on the cases at all. He allowed the change of venue as to one case after the dismissals.

12. The petitioner thought this action of the Court could be corrected by a simple appeal, and as there was no appellee, did not argue the case orally, but when the opinion was written, (*Biggs* v. *Schwalge,* 341 Ill. App. 268) the opinion was an intentional libel of the petitioner, based on the surmises and guesses of the respondents Schwartz, Scanlan and Friend, and having ignored the fact that the lower court had ruled the assignment good, and ignoring the court's own rule 7 which provides that the statement of facts may be considered accurate unless the appellee objects (there was no appellee), they said the assignment was a subterfuge to practice law, and by listing non-existent pleadings and dividing pleadings as to their sub-divisions, they stated titles as being pleadings, and as a reading of the opinion *Biggs* v. *Schwalge,* 341 Ill. App. 268, will show it was written with the express intent of ridiculing this petitioner, and as it was done on non-existing facts and non-existing pleadings, the petitioner contends that he can use the Federal courts to remove the libel from circulation, as the libel was done under color of a statute, as part of the conspiracy to estop the petitioner from exercising his right to appear and defend in his own person in the Courts, and could not be corrected with an appeal.

13. When the opinion in the case of *Biggs* v. *Schwalge* (341 Ill. App. 268) was rendered, proper legal procedure

was taken for a rehearing and appeal to the Supreme Court of Illinois, which could only be done with permission of three of the respondents, and they refused to let the appeal be made, and the United States District Court is the only place that a trial can be held to prove the falsifications and fabrications necessary to write that opinion.

14. Within a matter of days after the petition for rehearing was denied (which had pointed out the fact that the lower court said the assignment was good, petitioner had no client except himself, and was suing for his own money), the State and City officials filed motions in the Federal Court saying that on the basis of the decision of *Biggs* v. *Schwalge* (341 Ill. App. 268), the suits against them could not be maintained, and the Federal Court dismissed the action, and as the Court had illegally ruled alone on an attack on the Illinois Plumbing License Law, this petitioner filed a motion for leave to file a petition for writ of mandamus in this court in 1950 to expunge that court's order, which this Court did not allow, giving no reasons and hence the petitioner does not know why and the petitioner thus lost his right to appeal to the local Appellate Court while waiting for a ruling from this Court.

15. Immediately thereafter other courts dismissed two suits of the petitioner, and on September 19th, 1951 the petitioner argued one of them before the Supreme Court of Illinois, advising them that if suing on an assignment for your own money was a subterfuge to practice law, that court should hold him in contempt of court themselves for arguing the case before them, (which of course was not done), and some action should be taken to make the respondents herein bring a petition for rule to show cause, before the Supreme Court, alleging the evidence they have, to estop the petitioner from suing on assignments

for money due him, for wages or advances to the corporation, that he accepted in lieu of cash, which suggestion was ignored, *and any case brought by this petitioner reaching the Appellate Court can again be illegally dismissed unless an injunction issues forthwith.*

16. Under the law of Illinois certain licenses such as the professional engineer's mason's license, and others must be held or can be held in the name of the individual, and without the license no permits to build buildings can be obtained, and thus most every contract that the petitioner has in the *corporation's name now,* (he acquired ownership in June of 1949), is a joint contract, and the bulk of the work is done, and always has been done with the petitioner's money, and on his licenses, and as the corporations always owe him, there is no way that anyone can prove that any assignment he takes is a subterfuge to practice law, and no assignment was a subterfuge to practice law, and there never was a suit won in the Cook County Courts on any assignment prior to the decision in the case of *Biggs* v. *Schwalge.*

17. The bank accounts, checks, corporation minutes and charters were and are available to disprove any subterfuge, and when it suited their purpose the Appellate Court First District in another decision ruled that "the corporation is a front for Biggs to illegally operate a plumbing business in Chicago", and a lower court was correct in not listening to the case, and it is obvious that the courts are violating the Fourteenth Amendment which aids the illegal acts of others.

18. It is obvious that when all nine justices of the three divisions of the Appellate Court First District *try this petitioner for violations of quasi criminal statutes in their courts on questions not raised in the lower court,* when he is suing for money due him or equity, that the action of

the Court is a conspiracy to intimidate the petitioner from representing himself, and as they have admitted it, there is no need to prove it here.

19. In the State of Illinois it is a violation of the Attorneys and Counselors Act of Illinois (chapter 13 Smith-Hurd Statutes of Illinois 1949), (see *People ex rel Chicago Bar Association,* 188 N.E. 827-354 Ill. 595), to furnish free legal service, and in the case of *Biggs* v. *Schwalge* (341 Ill. App. 268) point VI of this petitioner's Brief was captioned,

> "The defendant was never legally defended, and thus plaintiff is entitled to judgment."

20. The evidence to support this point was a letter which bore the signature of the defendant, which was admitted, which was one of the reasons the petitioner asked for the admittance of facts (see *Biggs* v. *Schwalge,* 341 Ill. App. 268), but altho there was evidence that the law firm of Litzinger, Gatenby and Spuller, were violating the Attorneys and Counselors Act; as a matter of record; the respondents Schwartz, Scanlan and Friend did not consider that, but on their own surmises and guesses, which are worthless, they said the petitioner herein was in violation of the Attorneys and Counselors Act of Illinois.

21. That is one of the reasons the lower court had jurisdiction; evidence to convict an attorney is not considered, but evidence to convict a layman was manufactured in the same case, which is a violation of the Fourteenth Amendment in two instances, and it is not a question of practising law controlled by the State as the Court of Appeals for the Seventh Circuit ruled, but it was an illegal act of men who do not have judicial stature, men who did libel a litigant to drive him out of the courts which aided fellow lawyers, and who have no

defense, and made no defense in the lower court, and the act of the Court of Appeals for the Seventh Circuit of permitting the defaulting respondents to make what was a motion for summary judgment, and an attack on the complaint in that court should be condemned at this point, and not wait until Briefs are filed; (*United States* v. *Steffin*, 338 U. S. 902) if they should be filed at all; after this Court sustains the fact that a layman litigant is entitled to equal use of the courts, and the full benefit of the rules of court, and when all the cases, seven in number, are handled by all the Illinois Courts involved, wherein the petitioner was insulted and abused, no court followed their own rules or the Civil Practice Act of Illinois, and in four cases the courts made their own motions to estop or prevent judgment, is is very plain that a conspiracy existed to estop the petitioner from appearing *pro se* in any court.

22. There can be no question that the courts entered into a conspiracy to deny the petitioner of his right to appear in court in his own behalf, and the United States Courts can and should correct a denial of civil right by equity and law under Title 8 U.S.C.A. sections 43 and 47 —2 and 3 as plaintiff alleged, which denial of a civil right the respondents have all admitted.

23. The basis for the petitioner's contention that the judges and justices are not immune from actions brought against them, for violating the Fourteenth Amendment can be found in *Shelley* v. *Kraemer* (334 U. S. 1-13) and *Hague* v. *Committee of Industrial Organization* (307 U. S. 496-533).

24. The theory of the defaulting respondents and the respondent who is not involved in the *Schwalge* case which was sustained by the Court of Appeals for the Seventh Circuit that this is a question of the practice of law, is

without merit; the petitioner represents himself only, he has no client, his assignments received from corporations for wages or money loaned are the best considerations that can be had, and he now owns all the stock in the corporations.

25. The contention of the technical defaulting respondents in this case, whose counsel is the only competent representative representing any defendant in this cause, is that, because all some of the respondents did was to sustain an illegal act of a lower court by an illegal act of their own, that this suit is a collateral attack on the judgment, and this is in error, as the petitioner can still sue for the money, as the suit in the lower state court was an action in chancery to foreclose on a mechanic's lien, and at no time in any cause was this plaintiff on trial for violation of the Attorneys and Counselors Act of Illinois by any motion, petition, or other legal paper in any court, and thus the Appellate Court, who tried him in absentia for violating the Attorneys and Counselors Act of Illinois, *which deprived him of a judgment when the defendants were in default, did not have jurisdiction of the subject matter, on which they based their opinion.*

26. This Court has decided that jurisdiction of the subject matter is indispensable to the validity of a judgment in *Thompson* v. *Whitman*, 18 Wall. 457, 21 U. S. (L. ed.) 897, *Fauntleroy* v. *Lum*, 210 U. S. 230, 28 S. Ct. and several others, and that no amount of judicial discretion will ever supply the defect of want of jurisdiction in any case. (*Ex parte Bradley*, 7 Wall. 364-19 U. S. (L. ed.) 214, and in *Omaha National Bank* v. *Robinson*, 73 Neb. 351-102 M. W. 613, 104 N. W. 1070, it is said that an Appellate Court stands upon no higher or different footing as regards jurisdiction than a court of inferior jurisdiction.

27. In *Kilborn* v. *Thompson*, 103 U. S. 181 26 U. S. (L. ed.) 383, this Court has said that the jurisdiction of the Court to render a judgment affecting individual rights is always open to inquiry, when the judgment is relied on in any other proceedings.

28. The allegations and not the facts govern the jurisdiction (*Watts* v. *Gerking*, 111 Ore. 641, 228 Pacific 135, 34 A.L.R. 1489), and this Court in defining the jurisdiction of the subject matter says that it meant the nature of the cause of action and the relief sought (*Cooper* v. *Reynolds*, 10 Wall. 308, 19 U.S.(L. ed.) 931.

29. It can be added that the Supreme Court of Illinois in *People ex rel Chicago Bar Association* v. *Barasch* (406 Ill. 253) in the special concurring opinion has stated a person suing on an assignment has no client except himself, and as this petitioner does argue cases before the Illinois Supreme Court which are brought on assignments, and he is not held in contempt of that court for so doing, the defendants will never be able to present a defense for their illegal action, which they have admitted by motion or default, but they can dismiss this petitioner's suits again unless this court authorizes some court to issue an injunction to stop them, from committing their illegal acts.

30 The respondents Schwalge, Scanlan and Friend and others can be hurt by this case being tried, but they hurt the petitioner by illegal methods, and for reasons which violate the Federal Constitution as amended, and as long as they continue to spend money to litigate this cause, they want their illegal act condoned, and no Court can legally or morally condone the writing of an opinion as reported in volume 341 Ill. App. 268 (*Biggs* v. *Schwalge*), and no Court can ever acquire legal jurisdiction to write such an opinion, and if this petitioner could not prove

the illegal acts of the respondents, he would not bring this cause, and if the respondents did not know that he can prove their moral bankruptcy, they would hold him in contempt of their own courts.

31. The respondents can at this time undo the damage they intentionally did, they have the evidence and can obtain more which will prove that in the cases of *Biggs* v. *Schwalge* and *Biggs* v. *Plebanek* the counsel for the defendants were furnished by the Bakers Association and the Certified Grocers, in violation of chapter 13, Smith-Hurd Statutes of Illinois (1949), they know now, if they did not know it before, that their accusations against this petitioner was false and untrue, and they can use the money they are now using to fight this cause, to re-instate the petitioner's cases, on their own or associate's motion, which would be the decent and honorable thing to do, and which this petitioner can not do, and if they do not, this Court should let this case proceed to a decision by a jury as requested in the lower court, and let them be hurt,

> "as telling the truth will hurt no one only insofar as he ought to be hurt", *Gurt* v. *Gurt* (1919) 259 Fed. 597-598,

and the petitioner does not hesitate to repeat that if this Court will aid him, they will also aid a lot of other people in Cook County, and it may aid others in various other counties of Illinois.

32. This Court should not condone the action of the lower court, which aided men who have confessed by motion or default that they are in violation of section 20 of the Criminal Code, 18 U.S.C. (1946 ed) section 52 (see *United States* v. *Classic*, 313 U. S. 299-326) (*Screws* v. *United States*, 325 U. S. 91) and *Williams* v. *United States* #365 October Term 1950 as long as they show no desire to mend their ways, and as no Court has ever legally tried

this petitioner for violating the Attorneys and Counselor's Act of Illinois and no Court having jurisdiction to try the petitioner has ever shown any desire to try him for that offense; (but he has been tried twice in absentia in the Appellate Court who intended to fine him the sum of approximately $6000.00), unless a clear cut decision is made by the Federal Court, that suing on assignments received for a lawful consideration can not be a subterfuge to practice law, the petitioner may lose or has lost $1,000,000.00 that he is or was morally and legally entitled to, and he stresses the word morally because he has been slugged and beaten, his wife, who is 55 years old, visited him in a police station and talked to him between the bars of a cell, and saw obscene pictures thru her tears for the first time in the 31 years of their married life; she received her first threats over the phone from the Plumbers' Union 16 years ago; has watched the petitioner leave his home for years with a police guard, starting in 1936, and has had policemen in her basement for years, including the year 1949, and this occurred because the local politicians and the Courts are aiding the A. F. of L. Plumbers' Union, who, with the Master Plumbers Association, run a monopoly thru the illegal statutes which the petitioner testified against (as to the monopoly not the statutes), for the United States Government in the case of *United States* v. *Central Supply Assn.*, (Note. This is not a union fight, plaintiff is a member of the A. F. of L. and has been since 1919, and as late as 1945 was a delegate to the Chicago Federation of Labor), and the defaulting respondents Schwartz and McKinlay are the judges who said an injunction will not issue to stop the police from arresting this petitioner for carrying a weapon where the Commissioner of Police told him to put it, to protect himself after receiving both verbal and written threats against his life, and stop them from locking

him up and refusing him counsel and bail on false charges, these two respondents had the three cases before them in May of 1949, which is referred to in an order in the *Schwalge* case. (341 Ill. App. 268)

33. The petitioner contends that when he attacks an illegal ordinance or state statute that harms him, it is his right under the constitution, so to do, and as the results of his efforts do bring forth benefits to all the citizens of the United States, because his briefs and pleadings were furnished to other lawyers which resulted in the opinion in *People* v. *DeWitt Brown* (407 Ill. 565), and this causes the Judges and Justices herein involved to indulge in character assassination which aids their political sponsors, this court should allow this petitioner to bring the matter to the public eye, by a trial in the lower court, where the items stated heretofore will be proved in support of his complaint that the respondents herein did enter into a conspiracy to drive him out of the courts not on the decision of *Biggs* v. *Schwalge* alone, but on the various other illegal acts heretofore set forth in part, and quite a few others not herein mentioned.

CONCLUSION.

The petitioner contends his case is substantial, and that a decision by this court stating that layman have rights equal to those of an attorney in the courts is a prime necessity in view of the rulings heretofore made in the State Court, and that this Court should rule that laymen can not be tried in absentia in Courts of Appeals, for violating *quasi-criminal* statutes, to sustain or which did sustain illegal acts of the lower courts, who in turn were aiding the lawyers, with the Court's own motions, when the lawyers had placed their clients in jeopardy by fail-

ing to comply with the rules of the Court or the Civil Practice Act of Illinois, which will restore the confidence of the citizens of this State, and in particular the residents of Cook County, in the Constitution of the United States.

For the foregoing reasons, this petition for writ of certiorari should be granted.

Respectfully submitted,

E. J. Biggs,
Petitioner.

APPENDIX "A".

ORDER AFFIRMING JUDGMENT OF THE UNITED STATES DISTRICT COURT.

It Appearing That the defendants named in the complaint herein are or have been judges in the various State courts of the State of Illinois, and that plaintiff, a layman, complains that said defendants have deprived him of his civil rights under the Fourteenth Amendment, United States Constitution, and Title 8, U.S.C.A., Sections 43 and 47 (c), by refusing to permit him to appear in *pro se* in certain actions brought by plaintiff herein in said State courts; and

It Appearing Further That the United States District Court for the Northern District of Illinois, Eastern Division, dismissed the complaint herein for lack of jurisdiction, because no federal question was involved, from which judgment of dismissal plaintiff has appealed to this court; and

It Appearing Further That the right of an individual to practice law in the State courts of Illinois is determined by Illinois law, and that there is no possible federal question or questions involved in this appeal; and

The Defendants herein having moved this court, pursuant to Rule 13 of the Rules of this court, to dismiss the appeal of the plaintiff or, in the alternative, to affirm the judgment of the District Court, and the plaintiff and the defendants having filed briefs in support of their respective contentions.

It Is Ordered: That the judgment herein of the United States District Court for the Northern District of Illinois, Eastern Division, dismissing the complaint of the plaintiff be and the same is hereby affirmed.

Dated at Chicago, Illinois, this 20th day of September, A. D. 1951.

/s/ J. Earl Major
/s/ Otto Kerner
/s/ F. Ryan Duffy

APPENDIX "B".

State of Illinois }
County of Cook } ss.

IN THE DISTRICT COURT OF THE UNITED STATES

Eusebius James Biggs,
Plaintiff;
vs.
Ulysses S. Schwartz, Kickham Scanlan, Hugo M. Friend, Donald S. McKinlay, individually and as representative of all the judges in the State of Illinois, and Frank M. Padden,
Defendants.

No. 51 C 558

Plaintiff Requests Trial by Jury.

COMPLAINT.

1. Plaintiff is a resident of Illinois, and the named defendants are duly elected and qualified Judges of various courts presiding in Cook County, Illinois.

2. The action arises under the Act of April 9, 1865, chapter 31, section 1, 14 statute 27, commonly known as chapter 3 of title 8 covering Civil Rights, section 43 and section 47 paragraph 3, U.S.C.A., and also under the Fourteenth Amendment to the Constitution of the United States.

3. Starting on August 8, 1949 and continuing as of today, the named defendants entered into a conspiracy in violation of the statutes heretofore mentioned, to deprive the plaintiff of his right to appear in the courts of Illinois, and the District Courts of the United States of America, to sue in his own person for money he received on assignments from corporations in which he now owns stock, or for sums due him because he had joint ventures with the corporations, acting under color of the Attorney and Counsellors Act of Illinois, better known as the Act of March 28, 1874, chapter 13 of Smith-Hurd Illinois Revised Statutes of 1949.

4. That all the named defendants intentionally violated the Civil Practice Act of Illinois and the rules of their own court, in particular as to Section 57 of the Civil Practice Act of Illinois and Rule 21 of both the Circuit and Superior Courts of Cook County.

5. That to obtain sums now legally due him, because of the illegal acts set forth heretofore and hereafter the plaintiff had to make several appeals to the higher courts of Illinois, which necessitated the expenditure of hundreds of hours time, which he would have devoted to the companionship of Mrs. Biggs in the enjoyment of the normal pursuits of happiness, and he has spent approximately $2500.00 for briefs, court reporter and stenographer's fees, because of the refusal of the named defendants and others to follow the Civil Practice Act of Illinois, and the rules of their own courts; and these losses will increase from time to time, and in addition, being denied the right to maintain actions in his own person, his losses can and may reach $1,000,000.00, because of the lapse of the right to sue because of various statutes of limitations.

6. In furtherance of this conspiracy to intimidate the plaintiff into employing counsel to sue on assignment's

legally received and for a lawful consideration, the defendants Schwartz, Scanlan, and Friend on or about May 11, 1950 did intentionally libel and slander the plaintiff by stating in an opinion numbered 45017 that the plaintiff takes assignments of its (the corporation's) claims for the purpose of indulging his desire to practice law, and to arrive at this libel and slander of the plaintiff these defendants tried the plaintiff in absentia, for a violation of the statute known as the Attorney and Counselors Act heretofore more correctly stated, without evidence or a hearing of any kind, in violation of the rules of their own courts and the Constitution of the United States; the entire proceeding being an intentional violation of the Fourteenth Amendment to the Constitution of the United States, in that these defendants did not have jurisdiction of the plaintiff for the purpose they used, they exceeded their jurisdiction in other instances, and ignored the law governing assignments as written by the legislature of Illinois, writing into an existing Illinois Supreme Court decision a quotation that is non-existent, and in order to further ridicule the plaintiff, they listed as part of their opinion, non-existent pleadings, and divided the titles of pleadings to make it appear that two pleadings were filed when only one existed.

7. That this is a class action directed against all the Judges of Illinois, who are so numerous that they can not be made parties herein, the plaintiff seeking from this court a restraining order directed to all of them to estop them from refusing to hear cases brought by him, and from refusing to render summary judgments as provided by Section 57 of the Civil Practice Act of Illinois, (Chapter 110 of Smith Hurd Statutes of Ill. 1949), and their own court rules, as on one occasion when a sitting judge had verbally rendered judgment, in accordance with the

Statute, he was told by one or more other judges it was against the practice of the courts in the Cook County area, and he then refused to sign the judgment order made at his request, and several others including the named defendants refused to follow the Statute.

Wherefore plaintiff demands:—

(1) That any one or more or all of the named defendants be required to pay plaintiff such damages as plaintiff has sustained in consequence of the defendants' illegal acts; and in addition that punitive damages be allowed him in accordance with the Statutes of Illinois.

(2) That the defendants Ulysses Schwartz, Kickham Scanlan, Hugo Friend, Donald McKinlay and Frank M. Padden be required to deliver up for destruction all copies of an opinion known as Biggs vs. Schwalge #45017 of the Appellate Court First District of Illinois.

(3) That this court find by special finding that the actions of Ulysses Schwartz were prompted by malice.

(4) That the defendants pay the plaintiff the costs of this action and reasonable attorney's fees for his counsel in the event he hires one.

(5) That this court issue a temporary and permanent restraining order restraining all the Judges of the State of Illinois from dismissing legal actions brought by this plaintiff when suing in total and in part on assignments, and from refusing to comply with Section 57 of the Civil Practice Act.

(6) that Plaintiff have such other and further relief as is just.

E. J. Biggs
Plaintiff

State of Illinois, } ss.
County of Cook }

Eusebius James Biggs, being first duly sworn on oath, deposes and says that the facts stated in the foregoing complaint by him subscribed, are true in substance and in fact.

E. J. Biggs

Subscribed and Sworn to before me this 2nd day of April, A. D. 1951.

Oscar E. Peterson
Notary Public (Seal)

FEB 27 1952

IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 578

EUSEBIUS JAMES BIGGS,

Petitioner,

vs.

ULYSSES S. SCHWARTZ, KICKHAM SCANLAN, HUGO M. FRIEND, DONALD S. McKINLAY, individually and as representative of all the judges in the State of Illinois, and FRANK M. PADDEN,

Respondents.

PETITION FOR THE IMMEDIATE ISSUANCE OF AN INJUNCTION, FOR JUDGMENT AND OTHER RELIEF BECAUSE OF A RECENT RULING OF THE ILLINOIS SUPREME COURT, WHICH MAKES A NULLITY OF THE RULING OF THE COURT OF APPEALS FOR THE SEVENTH CIRCUIT ADJUDGING THE SUBJECT MATTER OF THIS CAUSE AS BEING THE PRACTICE OF LAW.

EUSEBIUS J. BIGGS,
8536 S. Peoria Street,
Chicago 20, Illinois,
Petitioner.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 578

EUSEBIUS JAMES BIGGS,

Petitioner,

vs.

ULYSSES S. SCHWARTZ, KICKHAM SCANLAN, HUGO M. FRIEND, DONALD S. McKINLAY, individually and as representative of all the judges in the State of Illinois, and FRANK M. PADDEN,

Respondents.

PETITION AND MOTION FOR IMMEDIATE JUDGMENT AND RESTRAINING ORDER.

Now comes Eusebius James Biggs, the petitioner herein, and respectfully shows the following:

On the 27th day of November A. D. 1951, a *per curiam* opinion was rendered in a cause known in the advance reports as *Biggs* v. *Spader* (411 Ill. 42), that the Illinois Supreme Court could not legally write on some items, in that it was contrary to the record of the lower court, and contrary to their own records, and which contained unnecessary ridiculing of this petitioner caused by their own errors, and a willingness to glance at carelessly written opinions, which is not their privilege, and they violated the Fourteenth Amendment to the Constitution of the United States (hereinafter referred to as the 14th Amendment), and caused irreparable damage to this petitioner,

as they do to others, because the Justices permit their opinions to be printed and sold before they pass on the petition for rehearing, and when as they did in that cause use their opinion to insult and abuse a litigant because of their own errors the attorneys who violated the 14th amendment; which caused the complaint against them in temperate language; are the first to buy the copy and spread the untruths; written by the Justices; among their fellow lawyers.

One of the untrue statements still in the opinion is that they denied this petitioner's leave to appeal in the case of *Biggs* v. *Schwalge,* (341 Ill. App. 268), as none was made and as the case is the subject matter of this action in part, it might be used as an argument here, hence it is prudent to point out that the amount involved in that case was a sum less than $500.00 and was not appealable without permission of the respondents herein and a reading of the Schwalge opinion will show that three of the respondents herein would not let an appeal be made.

If they had, there would be no case here as in a modified opinion; after the petition for rehearing was supposedly denied; part of the insults and abuse and some of the ridiculing was taken out, some but not all the untrue statements were removed from the opinion, and the court for the first time said as follows;

> "• • • Euseb as J. Biggs, individually and as the assignee of the E. J. Biggs Construction Co., filed a suit to foreclose a mechanics lien, • • • he appears here *pro se* as he did in the lower court. We have serious doubts as to the propriety of the judgment, which appears to have been based solely upon appellant's refusal to comply with the Crourt's direction to employ an attorney to represent him. Appellant has of course, a right to appear *pro se.*"

The Brief of this petitioner, which has been heretofore filed in this case in this court, in support of a motion to extend the time for filing the petition for writ of certiorari; hereinafter referred to only as the petition; was stricken from the files of the Illinois Supreme Court on the erroneous theory that the Magna Carta is not applicable in Illinois, and when the Judge violates the 14th amendment, and boasts that he is going to violate the State Statute, Chapter 13 Smith Hurd Statutes of Illinois so that the press can print it, as set forth on page 20 of the abstract in this case, (and in passing these judges involved are responsible for the insertion of questions 6, 7, and part of 11) the litigant has no recourse in Illinois and if; as this petitioner did, the litigant objects to the items mentioned; and the wheeling of a crippled veteran, with his wife placed alongside, and two attorneys, all standing in front of the Judge on a simple motion to strike, with a camera man facing the setup in the Court, and the desks of the bailiff and clerk given over to newspaper men, and the litigant does as this petitioner did, carefully insert the illegal setup in the record, as far as he was permitted, so to do, and subsequently alleged that the court could not permit a hearing under those conditions (questions 7 and 8 pages 4 and 5 petition this case) without violating the 14th amendment; in particular, because the defendants were legally in default, two attorneys were addressing the court when the court rules permit of only one for either party, the Civil Practice Act of Illinois does not permit of attacking the complaint piece meal; the prayer one time, a few paragraphs now and then; the opening paragraph later: the Illinois Supreme Court said that when a litigant objects to that, in temperate terms stating that the court was violating the 14th amendment, and counsel was also violating it, that shows wrath and spleen.

This petitioner did object to the attorney informing the press at that hearing, when the argument was in progress, saying in a loud voice,

> "When we get thru here, the Veterans Administration is going to make a bum out of you." (This petitioner)

However; altho the opinion can not be considered as being accurate; it does definitely say that this petitioner is not practising law when he sues on assignments, and the subject matter set forth in paragraphs 24 to 29 inclusive, on pages 20 and 22 of the petition, will add to the same conclusion, and shows definitely that the statements the questionable respondents herein made to the Court of Appeals for the Seventh Circuit, were without merit, the word "questionable" being used because as stated elsewhere, after the first motion to strike was made, no briefs or other legal papers, carried the names of the attorneys properly, and without an appearance Donald McKinlay appeared on the motion to affirm in the Court of Appeals by having a motion filed, which is signed, Michael Gerrard, Gotleib and Schwartz (Rec. 33) which is a type of skullduggery one might find in the Municipal court of Chicago, but should not be allowed in the Federal Court.

The only legal appearance, in so far as this petitioner is concerned, is that of the defendant Padden, and this Court should so find, as making an attorney a partner of a law firm by placing his signature ahead of an entirely different law firm to cover up the lack of notice or no appearance at all, does not come within the scope of lawful legal practice.

The respondent or respondents herein, for all intents and purposes have been told by the opinion of *Biggs* v. *Spader* (411 Ill. 42); by the only Court in Illinois, that can try

anyone legally for violating the Attorneys and Counselors Act of Illinois; that when they tried this petitioner for violation of that act, and convicted him on their surmises and guesses that their act was a nullity, which also makes a nullity of the affirming order of the Court of Appeals for the Seventh Circuit, which said that in suing on assignments *pro se,* that was practicing law, and hence the Federal Court did not have jurisdiction.

The respondent Padden thru his counsel, says the petitioner did not state the libel, which was his error. Libel was alleged, and on the motion to strike he admitted the libel if it existed, and of course all the defaulting respondents also admitted the libel and the libel exists because without a trial, and without a formal legal charge, the action of the petitioner in prosecuting a suit to recover his own money (*Biggs* v. *Schwalge,* 341 Ill. App. 268), has been compared to that of an ex convict named Paysoff Tinkoff, who, using his relationship as a father, filed suits on assignments as guardian *ad litem* for his son, to sue on assignments received from others, in which part of the money was to be given back to other persons which he admitted (*People ex rel Tinkoff,* 399 Ill. 282).

That as Paysoff Tinkoff is an ex convict, which fact is well known in the Chicago area, this libel by innuendo has done irreparable harm to this petitioner, but disregarding that angle entirely, the statement that this petitioner was practicing law is a libel itself, as the petitioner would be violating a quasi criminal statute if he did, and the opinion (*Biggs* v. *Schwalge,* 341 Ill. App. 268) is not one that any court could legally write, and is being used to insult this petitioner in all types of courts in Cook County, Illinois, by Justices, Judges, and counsel, and was used by a committee of twelve members of the Chicago Bar Association;

whose membership include the respondents herein; to intimidate, or attempt to intimidate, or to do both, to stop him from proceeding here or suing *pro se* in other courts, and had this petitioner ever hired counsel at the request of the court which said he was representing the corporation rather than himself, he would have been tried for a violation of the Attorneys and Counselors Act, because he had filed the original proceedings, the purpose of the threat to dismiss the suits if counsel was not hired being to establish that the pleadings not being filed by counsel, no defendant would be in default, because the petitioner had filed the original pleadings and the motion for summary judgment.

The members of the Chicago Bar Association, "requested" that this petitioner come to their office to "discuss" the subject matter in part of this action, and in a telephone conversation informed him that they were authorized to conduct the investigation by the Supreme Court of Illinois covering the matter set forth on exhibit B; set forth as an appendix herein; but when the petitioner appeared before them with a court reporter they changed their story and said they were not a legal body, and were immediately informed that under those circumstances this petitioner was of the opinion that they were in contempt of this court, and if they engaged in an attempt of entrapment, they would be in direct contempt; because without having legal authority this petitioner could not offer a defense to the illegal act of the respondents herein without exposing himself to a libel suit; but if they wanted to ask questions to gain information with honest motives the petitioner would answer them.

The report of proceedings show that they asked questions stated below, and others with similar intentional

entrapments, and when they were answered in the language a contractor uses to drunken building laborers, and were told that exhibit "B" came within the meaning of the word *"coercion,"* they adjourned the meeting with a loss of time and money; which was worth and cost the petitioner appromixately $250.00. The questions in part were,

> "You have then participated in lawsuits on behalf of the Company?
>
> In what capacity have you taken claims of the E. J. Biggs Construction Company before the Courts?"

By the opinion *Biggs* v. *Spader* (411 Ill. 42) the respondents Schwartz, Scanlon and Friend having in effect been found guilty of libel, this case should be remanded to the United States Court of Appeals for the Seventh Circuit of the United States District Court now as there is nothing left to try except the amount of damages, and as these respondents have not increased their stature by the chicanery of their counsel in the lower Federal courts, wherein briefs were filed with the defendants not being properly named or named at all in the lower court (Rec. 20) so that it would appear that the original counsel was acting for all (Abst. 23), that counsel engaged in name calling (Abst. 25) and several times stated this petitioner could not sue *pro se* in the Federal Courts, (in fact that is his whole argument (Abst. 12) and they ignored the Federal Rules for Civil Procedure, and ignored the rules of the lower court, this petitioner contends it is expedient and necessary at this time, that an immediate injunction should issue forthwith, so that the threat made by the Judge in the *Spader* case as set forth on page 20 of this abstract can not be carried out by the respondents or their associates. It should be noted that an injunction directed to one court would not be proper, but would be proper against all the courts in view of what has happened.

Having in mind that the respondents may still argue that they had the right to write the opinion, (*Biggs* v. *Schwalge*, 341 Ill. App. 268) because the Brief of the petitioner supported their opinion, the petitioner points out that the Brief, which shows otherwise is on file in this Court now, on pages 71 to 100 in the case of *BIGGS* v. *PLEBANEK* #577, OCTOBER TERM 1951. (THE CASE IMMEDIATELY PRECEDING THIS ONE), and copies of the Brief and Abstract have been served on the respondents' counsel. The Illinois Supreme Court has now indirectly sustained the prayer of petitioner therein, which some of the respondents herein refused to let them pass on, by refusing to allow an appeal, on an opinion of first impression.

The abstract of the case of *Biggs* v. *Schwalge* and *Biggs* v. *Plebanek* run from pages 26 to 70 inclusive and 101 to 171, and they both contain the same identical statements of the defaulting respondent McKinlay (as he illegally combined them), *that he dismissed the actions in whole or in part as it was against public policy for an officer of a corporation to sue pro se on good assignments* (the petitioner was not an officer), received from a corporation.

CONCLUSION.

The defaulting respondent McKinlay could have been sincere but he did not have jurisdiction to do what he did and he has caused a huge financial loss to this individual because he violated the 14th Amendment, and his act was intentional because he was warned by this petitioner's counsel, and he had his own doubts as to the legality of his action because he said;

> "* * * a *nisi prius* judge normally would not overrule my order. Maybe the United States Supreme Court would overrule it."

The three technical defaulting respondents Schwartz, Scanlon and Friend, did violate the 14th Amendment by imputing an illegal motive for an assignment, so that they would not have to undo the illegal act of the lower court, because the respondent McKinlay said the assignment was good.

The motions following are in conformity with this Court's ideas as expressed by its action in *United States v. Steffen*, 338 U. S. 902, it being this petitioner's contention that *as the Court of Appeals for the Seventh Circuit has said that suing on assignment was a practice of law in Illinois,* (Rec. 34) *and the Illinois Supreme Court has said it is not practicing law, the judgment of the Circuit Court of Appeals is a nullity, as the decision of the Illinois Supreme Court is controlling as the Seventh Circuit Court says in Appendix "A".*

PRAYER.

Wherefore, this petitioner moves this Court to remand this case to the United States Court of Appeals for the Seventh Circuit or the District Court in which this action originally commenced, at this time, with instructions to do the following:

1. Issue an immediate injunction or restraining order estopping all the Courts of the State of Illinois from dismissing any suit for the recovery of money filed by this petitioner, because the suit is filed in part or in whole from any assignor.

2. To include in the foresaid order in a form which will suit, an order directed to all the Courts to comply with the Civil Practice Act of Illinois, in particular as to section 57.

3. To declare the respondents McKinlay, Schwartz, Scanlon and Friend as being in default for want of legally filed answers; or illegal appearances, or in the alternate issue a declaratory judgment; and to have a jury in the District Court of the Northern District of Illinois, Eastern Division assess damages as provided under Illinois Law, including a malice count against the respondent Schwartz, if the jury so find.

4. To direct that the respondent Padden file an answer if he has a defense, and that he be tried by the jury.

5. To enter a rule to show cause why Michael Gerrard should not be barred from further practicing in the Federal Courts.

6. That the respondents deliver up for destruction all copies of the opinion *Biggs* v. *Schwalge* (341 Ill. App. 268) or publish world wide over a specified period of time, the fact that the pleadings listed by the respondents do not exist as a matter of record in either the Brief or Abstract by the respondents of the case of *Biggs* v. *Schwalge* (341 Ill. App. 268), and that the suits the respondents said were taken by this petitioner on assignment, were suits in which this petitioner was sued as an individual, with the one exception that the petitioner sued a banker for false arrest, and the banker thought it prudent to make a settlement when the petitioner was granted an order to examine the bank's books at their own expense, to prove the banker, thru his paid agent, was a perjuror, and it should be added that this petitioner does not like dirty money (tort actions), and he would only take in approximate round sum dollars the amount it cost to win the action against the banker. This Court could also order that the publica-

tion include the fact that one of the suits was illegally brought by the Attorney General of Illinois at the instruction of someone working under the now President of the National Plumbers Union, and that the banker only proceeded with his case because an Assistant United States District Attorney agreed to and did commit perjury, and was to be supported by the testimony of the business agent of the Plumbers Union, who had been indicted for a criminal offense on this petitioner's testimony, and counsel for a bonding company who secured judgments against his own client in a court without jurisdiction, and not in the name of the United States as required under the Miller Act, so that the Bonding Company would not be sued for illegally tying up funds then due this petitioner.

7. That this Court direct the lower court of Illinois to issue a rule to show cause directed to the members of the Chicago Bar Association, whose names will be furnished to that Court, who participated in, or were responsible for the intimidation or attempted intimidation of this petitioner in the hearing held in the offices of the said Bar Association mentioned in exhibit "B" hereinafter set forth.

8. That the petitioner have other and further relief in the premises.

9. That the petitioner have his costs.

Respectfully submitted,

E. J. Biggs,
Petitioner.

State of Illinois }
County of Cook } ss

E. J. Biggs being duly sworn on oath, deposes and says the facts stated hereinbefore and after are true in substance and in fact, and the quotations taken from the case of *Biggs* v. *Spader*, are correct; that the opinion erroneously states that they denied the petition for leave to appeal in the case of *Biggs* v. *Schwalge* (341 Ill. App. 268), which was not made, and that there is no appellee in the case and the matter is still pending in the Illinois Supreme Court, as the Court has been asked to correct the order to conform to its own record, by motion which will be pending until about March 10, but not to eliminate the matter heretofore quoted.

E. J. Biggs,
Petitioner.

Subscribed and sworn to
before me this ..... day of
February, 1952.

.....
Notary Public

EXHIBIT "B"

Mr. E. J. Biggs
8536 South Peoria Street
Chicago 20, Illinois

Dear Sir:

I am directed by the Committee on Unauthorized Practice of The Chicago Bar Association to advise you that there has been called to its attention an opinion of the Appellate Court of Illinois wherein the Court states that you, in a certain matter therein specified, were engaged in the unauthorized practice of law.

Acting upon this report, the Committee desired to inquire into the question as to whether or not in other matters you are engaged in the practice of law, and for that purpose requests that you come to a meeting of the Committee to be held on Tuesday, February 12, 1952 at 1:00 o'clock P. M., to discuss the matter.

This meeting will be held in one of the private dining rooms of The Chicago Bar Association, 29 South LaSalle Street, Room 1140, Chicago, Illinois.

Trusting that you will advise me by telephone or letter of your intention being present, I am

Very truly yours,

Joseph M. Larimer
Joseph M. Larimer

Assistant Secretary